

2-028A040

17625-A
JAN 28 1992 - 2 50 PM
INTERSTATE COMMERCE COMMISSION

January 23, 1992

Ms. Mildred Lee
INTERSTATE COMMERCE COMMISSION
12th & Constitution Avenue N. W.
Washington, D. C. 20423

RE: Memorandum of Recourse Note and Security Agreement
dated December 23, 1991

Dear Ms. Lee:

Per our recent conversation, please find enclosed our check in the amount of \$16.00 for payment of the filing fee in connection with the above referenced agreement sent to you January 10, 1992.

For your information, parties to the transaction are:

Lessor (Maker): HM Joint Venture
Lessee: Arch Mineral Corporation
Bank: First National Bank of Louisville

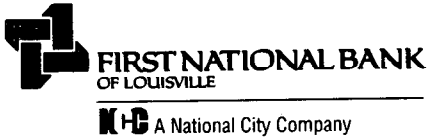
Very truly yours,

FIRST NATIONAL BANK OF LOUISVILLE


Toni Scott
Vice President

MLS/ldb

MOTOR OPERATING UNIT
JAN 28 2 46 PM '92



January 10, 1992

2-028A040

Honorable Noreta R. McGee
Secretary
INTERSTATE COMMERCE COMMISSION
Washington, D. C. 20423

Dear Ms. McGee:

Please find enclosed for filing under 49 U. S. C. Section 11303 and the regulations promulgated thereunder, a Memorandum of Recourse Note and Security Agreement executed as of December 23, 1991 evidencing our security interest in a lease bearing ICC recordation #17565 dated October 16, 1991.

You will also find enclosed our check in the amount of \$15.00 in payment of the filing fee.

Once the filing has been made, please return for our files a stamped copy of the Memorandum together with the fee receipt and your letter acknowledging the filing.

Very truly yours,

FIRST NATIONAL BANK OF LOUISVILLE



Toni Scott
Vice President

MLS/lhb

Interstate Commerce Commission
Washington, D.C. 20423

1/29/92

OFFICE OF THE SECRETARY

Toni Scott

Vice President

First National Bank Of Louisville

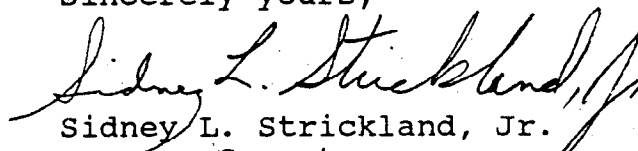
P.O.Box 36000

Louisville, Kentucky 40233-6000

Dear Sir:

The enclosed document(s) was recorded pursuant to the provisions of Section 11303 of the Interstate Commerce Act, 49 U.S.C. 11303, on 1/28/92 at 2:50pm, and assigned recordation number(s). 17565-A

Sincerely yours,


Sidney L. Strickland, Jr.
Secretary

MEMORANDUM OF
RECOURSE NOTE AND SECURITY AGREEMENT

17545-A
JAN 28 1992 - 2 50 PM
INTERSTATE COMMERCE COMMISSION

THIS MEMORANDUM OF RECOURSE NOTE AND SECURITY AGREEMENT is intended to evidence the Recourse Note and Security Agreement dated as of December 13, 1991 (the "Note and Security Agreement") between HM JOINT VENTURE, a California Joint Venture (the "Maker"), and First National Bank of Louisville, (the "Bank"), for the purpose of satisfying the requirements of recordation with the Interstate Commerce Commission under Section 49 of U.S.C. 11303. The Maker is the owner of the open top hoppers more fully described in Annex A hereto (the "Unit(s)"). The Maker has granted a security interest in the Units to the Bank upon the terms and conditions provided in the Note and Security Agreement, attached hereto as Annex B.

IN WITNESS WHEREOF, the Maker and the Bank, each pursuant to due authority, have executed this Memorandum of Note and Security Agreement, as of this 23RD day of DECEMBER, 1991.

Maker
HM JOINT VENTURE
A California Joint Venture

By: Helm Equipment Leasing
Corporation, a general partner

By: 

Title: PRESIDENT

By: Mansbach Realty Company, a
general partner

By: 

Title: PRESIDENT

Bank
FIRST NATIONAL BANK OF LOUISVILLE

By: 

Title: V.P.

ANNEX A

to

Memorandum of Recourse Note and Security Agreement

Dated as of December 13, 1991Equipment Description

Two-hundred three (203) 3,502 cubic foot, 100-ton capacity, roller bearing, three pocket open top coal hopper railcars built by Missouri Pacific in 1967.

Equipment Numbers

URDX 87201				
87203	87268	87332	87386	87448
87204	87269	87333	87387	87449
87205	87270	87334	87388	87454
87207	87272	87335	87389	87456
87210	87273	87336	87390	87457
87212	87276	87337	87391	87459
87213	87277	87338	87392	87460
87215	87278	87339	87393	87462
87216	87279	87340	87397	87464
87217	87280	87341	87399	87465
87218	87281	87342	87401	87466
87219	87282	87343	87402	87467
87220	87283	87344	87405	87468
87221	87286	87345	87406	87469
87222	87288	87347	87407	87470
87223	87292	87348	87408	87471
87224	87293	87350	87410	87472
87225	87294	87351	87411	87473
87227	87295	87352	87412	87474
87230	87296	87354	87413	87475
87231	87297	87355	87415	87476
87232	87299	87356	87416	87477
87233	87300	87357	87418	87478
87235	87301	87359	87419	87480
87237	87302	87361	87420	87484
87240	87306	87364	87423	87487
87241	87308	87365	87424	87488
87244	87309	87366	87425	87489
87245	87312	87367	87426	87491
87246	87313	87368	87427	87492
87247	87314	87370	87428	87494
87248	87315	87371	87429	87496
87249	87316	87372	87430	87498
87253	87318	87374	87431	87499
87254	87321	87375	87432	
87255	87322	87377	87434	
87258	87323	87378	87436	
87259	87324	87380	87438	
87260	87326	87381	87439	
87262	87329	87382	87440	
87264	87330	87383	87442	
87266	87331	87385	87444	

ANNEX A

to

Memorandum of Recourse Note and Security Agreement

Dated as of December 13, 1991

continued

Equipment Description

Ninety-four (94) 3,422 cubic foot, 100-ton capacity, roller bearing, three-pocket open top coal hopper railcars built by Bethlehem steel in 1967.

Equipment Numbers

URDX 87000	87082	87145
87002	87085	87151
87004	87086	87153
87007	87087	87156
87009	87088	87159
87010	87090	87160
87012	87091	87162
87014	87095	87165
87017	87096	87166
87018	87097	87169
87019	87099	87170
87021	87101	87171
87022	87105	87172
87023	87107	87174
87026	87108	87177
87034	87110	87179
87035	87116	87182
87041	87117	87184
87045	87118	87185
87046	87119	87175
87055	87123	87179
87057	87124	87191
87060	87128	87192
87062	87129	87193
87064	87133	87194
87066	87134	87195
87068	87135	87196
87072	87136	87198
87073	87138	87199
87074	87139	87287
87078	87140	
87080	87144	

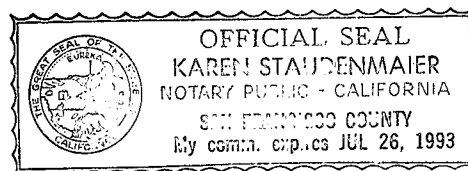
STATE OF CALIFORNIA)
) S
COUNTY OF SAN FRANCISCO)

On this 20th day of December, 1991, before me personally appeared Richard E. Kirchner, to me personally known or proved to me on the basis of satisfactory evidence to be the person, who, being by me duly sworn, says that he/she is the person whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same.

Karen Staudenmaier
Notary Public

My Commission Expires: July 26, 1993

[Notarial Seal]



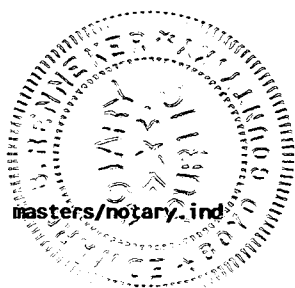
COMMONWEALTH OF KENTUCKY)
) S
COUNTY OF BOYD)

On this 23rd day of DECEMBER, 1991, before me personally appeared GERALD MANSBACH, to me personally known or proved to me on the basis of satisfactory evidence to be the person, who, being by me duly sworn, says that he/she is the person whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same.

Edward B. Renneker
Notary Public

My Commission Expires: 12/6/94

[Notarial Seal]



Annex B

FIRST NATIONAL BANK OF LOUISVILLE

RECOURSE NOTE AND SECURITY AGREEMENT

Date: December 13, 1991
Louisville, Kentucky

FOR VALUE RECEIVED, HM JOINT VENTURE, a joint venture organized under the laws of the State of California (hereinafter called the "Debtor"), hereby promises to pay to the order of FIRST NATIONAL BANK OF LOUISVILLE, a national banking association (hereinafter called the "Secured Party"), at its office in Louisville, Kentucky, the principal amount of ~~Five Thousand Eight Hundred~~ together with interest on the unpaid principal amount hereof outstanding from time to time at the rate of ~~10%~~ per annum. Debtor shall pay the Secured Party twenty-four (24) equal, successive monthly installments of ~~100.00~~ commencing on January 30, 1992 and on the 30th day of each month thereafter with a final installment due on December 30, 1993.

Section 1. Grant of Security Interest

As security therefor, Debtor hereby gives the Secured Party a security interest in and lien on all of the Debtor's rights, title and interest in the property described in Exhibit "A" attached hereto and made a part hereof which property is now owned by Debtor or to be purchased by Debtor with the proceeds of this Note (hereinafter called the "Equipment"). As further security for this Note, Debtor hereby assigns to Secured Party (i) all monies due and to become due Debtor under the Lease of railroad equipment dated as of September 18, 1991 (the "Lease") between Debtor and Arch Mineral Corporation (hereinafter the "Lessee") excluding any monies received by Debtor as indemnification by the Lessee for loss of tax benefits claimed by the Debtor, (ii) all of the Debtor's rights but not obligations under said Lease and (iii) the proceeds of any and all of the foregoing. The Equipment, the Lease, all monies due, the rights under the Lease and the proceeds thereof are herein collectively defined to be the "Collateral".

Section 2. Representations and Warranties of the Debtor

Debtor hereby represents and warrants that:

- (i) this Note and Security Agreement has been duly authorized, executed and delivered by the

COPY

Debtor and constitutes a legal, valid and binding agreement and obligation of the Debtor enforceable according to its terms, except as limited by applicable insolvency, moratorium or other similar laws or equitable principles affecting the rights of creditors generally,

- (ii) neither the execution and delivery of this Note and Security Agreement or the Lease nor the consummation of the transactions herein contemplated nor the fulfillment of, nor compliance with, the terms and provisions hereof will conflict with, or result in a breach of, any of the terms, conditions or provisions of the Articles of Incorporation or the bylaws of the Debtor or of any bond, debenture, note, mortgage, indenture, agreement or other instrument to which the Debtor is a party or by which it or its property may be bound, or constitute (with the giving of notice or the passage of time or both) a default thereunder, or result in the creation or imposition of any lien, charge, security interest or other encumbrance of any nature whatsoever upon the Collateral pursuant to the terms of any such agreement or instrument,
- (iii) it is a joint venture duly organized and validly existing under the laws of the jurisdiction of its formation, is duly qualified to do business in each jurisdiction (including the jurisdiction where the Equipment is, or is to be located) where failure to so qualify would materially adversely affect Debtor's business,
- (iv) the Debtor has good title, as conveyed to it, to the Collateral free and clear of all security interests, liens and encumbrances, except for the respective interests of the Secured Party and the Lessee,
- (v) the Lease is a valid and binding agreement of the Debtor and the Lessee, except as limited by applicable insolvency, moratorium or other similar laws or equitable principles affecting the rights of creditors and lessors generally,
- (vi) the Lease constitutes the entire agreement between the Debtor and the Lessee and the Debtor has delivered to the Secured Party the original of the Lease,

COPY

- (vii) no other assignment or security interest has been or will be granted with respect to the Collateral or the monies assigned hereunder, however, Debtor may grant subordinate interests in the residual value of the Equipment to other parties, and,
- (viii) the rents payable under the Lease assigned hereby to Secured Party are not, to the best knowledge of Debtor, subject to any defenses, setoffs or counterclaims.
- (ix) _____ units of Equipment have been delivered and accepted by the Lessee at the time of execution hereof. The remaining _____ units of Equipment are in the process of being delivered and inspected.

Section 3. Covenants of Debtor

The Debtor agrees:

- (i) that all payments to be made by the Debtor hereunder shall be made to First National Bank of Louisville, P. O. Box 36000, Louisville, Kentucky 40233, Attention: Leasing Industry Financing,
- (ii) that all right, title and interest of the Debtor in and to the Collateral and any payments with respect thereto are and shall be subject and subordinate to all of the right, title and interest of the Secured Party therein,
- (iii) not to take any material action with respect to its right, title and interest in and to the Collateral without the prior written consent of the Secured Party, which will not be unreasonably withheld,
- (iv) to execute and deliver any and all papers or documents which Secured Party may reasonably request from time to time in order to carry out the purposes hereof, or to facilitate the collection of monies due or to become due from the Lessee,
- (v) that the Debtor will duly fulfill or cause to be fulfilled all of the obligations if any to be performed and assumed by it under the Lease including, but not limited to, its warranty of quiet enjoyment, and shall remain liable

thereunder and that it will not, without Secured Party's prior written consent, modify, rescind, cancel or accept the surrender of the Lease or waive any of the provisions thereof or extend the time of payment for the rent thereunder,

(vi) to keep the Collateral free and clear of, or discharge within 45 days of the creation of, all mortgages, pledges, liens, charges, security interests and all other encumbrances whatsoever, except those created by this Note and Security Agreement, provided however that a property tax lien may remain on the Collateral in excess of the 45 day period set forth above so long as the Debtor or the Lessee discharges the lien on or before the date a penalty attaches for nonpayment of the tax, provided further that the following liens, mortgages, pledges, charges, security interests and other encumbrances may remain on the Collateral in excess of the 45 day period:

a) liens for taxes (other than property taxes), assessments, or similar charges, incurred in the ordinary course of business, that are not yet due and payable;

b) liens of mechanics, materialmen, warehousemen, carriers, or other like liens, securing obligations incurred in the ordinary course of business that are not yet due and payable;

c) liens existing as of the date hereof or which the Secured Party has knowledge and has consented to in writing;

d) the following if the validity or amount thereof is being contested in good faith by appropriate and lawful proceedings, so long as levy and execution thereon have been stayed and continue to be stayed and they do not in the aggregate materially detract from the value of the Collateral, or materially impair the use thereof in the operation of Debtor's or Lessee's business:

1) claims or liens for taxes, assessments or charges due and payable and subject to interest or penalty;

COPY

2) claims, liens or encumbrances upon the Collateral including any attachment of the Collateral or other legal process prior to adjudication of a dispute on the merits;

3) claims or liens of merchants, materialmen, warehousemen, carriers, or other like liens; and

4) adverse judgments on appeal.

- (vii) to keep or cause the Lessee to keep the Equipment in good repair and operating condition without any cost or liability to Secured Party,
- (viii) that all accessions which are or become attached to or part of the Equipment are or shall become subject to the terms of this Note and Security Agreement, to the extent permitted in the Lease,
- (ix) to notify Secured Party upon its knowledge of any Lessee defaults in the payment or performance of any of its obligations under the Lease,
- (x) not to sell, assign, transfer, mortgage or in any way encumber the Collateral, nor secrete or abandon the Equipment without the prior written notice to the Secured Party,
- (xi) to allow Secured Party and its representatives free access and right of inspection of the Equipment at all reasonable times, and in the event of loss or damage to the Equipment, to send written notice thereof to the Secured Party,
- (xii) that it will not remove its records concerning the Lease except to a jurisdiction where the Uniform Commercial Code shall be in effect, and upon 30 days' prior written notice to the Secured Party, and will permit Secured Party and its representatives to examine Debtor's books and records with respect to the Collateral and make extracts therefrom and copies thereof at any reasonable time and from time to time,
- (xiii) that it shall not permit the Equipment to be or become fixtures under applicable law,

- (xiv) to keep or cause the Lessee to keep the Equipment insured against public liability and loss by fire, theft and casualty, by self-insurance or by insurers and in form, amount and coverage customary for such Equipment in businesses similar to Lessee's business;
- (xv) to deliver to the Secured Party: (i) within 90 days after the end of each fiscal year of Debtor and within 45 days after the end of each fiscal quarter of Debtor, a balance sheet and income and surplus statement showing its financial condition as of the close of such year or quarter, as appropriate, and the results of its operations for such period, prepared in accordance with generally accepted accounting principal, consistently applied and each quarterly report certified by Debtor's chief financial officer with the annual report certified by an independent certified public accountant; and (ii) with reasonable promptness such other information regarding Debtor's operations, business and financial affairs as the Secured Party may reasonably request.
- (xvi) to pay or cause Lessee to pay all charges, including without limitation, taxes and assessments, levied or assessed against Debtor which if unpaid would constitute an attachment on the Collateral or any portion thereof, provided however that should Lessee fail to make such payments as required pursuant to the Lease, Debtor shall have 45 days after the due date thereof to make said payments unless an attachment will be imposed on said Equipment prior to the end of said 45 day period in which event payment shall be made by Debtor prior to imposition of the attachment unless such attachment may not be foreclosed within such 45-day period.

Section 4. Rights of Secured Party

The Debtor hereby irrevocably constitutes and appoints Secured Party and any officer thereof, with full power of substitution, as its true and lawful attorney-in-fact with full irrevocable power and authority in the place and stead of the Debtor or in its own name, with the written consent of Debtor unless and until a default shall have occurred hereunder, for the purpose of carrying out the terms of this Note and Security Agreement to take any and all appropriate action and to execute any and all documents and

instruments which may be necessary or desirable to accomplish the purposes of this Note and Security Agreement and, without limiting the generality of the foregoing the Debtor hereby gives Secured Party the power and right, on behalf of the Debtor, to endorse any loss payment or returned premium check and to make, settle and release any claim under any insurance policy with respect to the Collateral, and to do, at the Secured Party's option, at any time, or from time to time, all acts and things which the Secured Party deems necessary to protect, preserve or realize upon the Collateral and the Secured Party's security interest therein in order to effect the intent of this Note and Security Agreement, all as fully and effectively as the Debtor might do. The Debtor hereby ratifies all that said attorneys shall lawfully do or cause to be done by virtue hereof, except for actions taken in which Secured Party is negligent or the action is due to Secured Party's willful misconduct. This power of attorney is a power coupled with an interest, shall be irrevocable and shall terminate only upon payment in full of the obligations and termination of this Note and Security Agreement. The powers conferred on Secured Party thereunder are solely to protect the Secured Party's interests in the Collateral and shall not impose any duty upon it to exercise any such powers. Secured Party shall be accountable only for amounts that it actually receives as a result of the exercise of such powers, and neither it nor any of its officers, directors, employees or agents shall be responsible to the Debtor for any action taken or omitted to be taken in good faith or in reliance on the advice of counsel except for its own negligence or willful misconduct.

Section 5. Collection of Rent

(a) Debtor shall notify the Lessee that all rents payable under the Lease shall be paid to Secured Party's address or, in the event a lock box agreement is in effect between Debtor and Secured Party, to the address specified in said agreement. The amounts from time to time received by the Secured Party as rental under the Lease shall be applied to the amount of principal and interest then due and payable on this Note and Security Agreement. All sums received by the Secured Party from the Lessee due to the loss or destruction of the Collateral shall be applied to the remaining principal and interest then outstanding on this Note and Security Agreement in accordance with the formula specified in Section 6(b) hereof, with any excess paid by the Secured Party to Debtor. Debtor agrees, notwithstanding any contrary provisions of Section 8(a) hereof, that it will pay to Secured Party the difference, if any, between the value of a unit of Equipment in the Casualty Schedule attached as Schedule B to the Lease and the sum remitted by Lessee pursuant to the second paragraph of Section 8(b) of the Lease, provided such remittance is less than the amount set forth in said

Schedule B. Any insurance proceeds as regards the Collateral shall be applied according to the terms of the Lease, but in the event the insurance proceeds are not used to replace or repair the Collateral for any reason whatsoever, said proceeds shall be paid to the Secured Party and applied to the principal and interest then outstanding on this Note and Security Agreement, with any excess paid by the Secured Party to Debtor.

(b) The Secured Party may, upon occurrence of an event of default hereunder, notify the Lessee that the Lease has been assigned to the Secured Party and that all rental payable thereunder shall be paid directly to the Secured Party. The Secured Party may also direct Debtor to so notify any Lessee, and Debtor agrees to follow any such directions. All rental received by Debtor from the Lessee so notified shall be received and held by Debtor in trust for the Secured Party and shall be delivered to the Secured Party immediately upon receipt thereof by Debtor in the same form as received except for Debtor's endorsement when necessary. In the event Debtor fails to endorse any instrument given in payment of rental, the Secured Party is hereby irrevocably authorized to endorse the same on Debtor's behalf.

Section 6. Prepayment

Debtor may not voluntarily prepay the indebtedness evidenced by this Note and Security Agreement in whole or in part; provided, however, that the Debtor may voluntarily prepay that portion of this Note and Security Agreement secured by a Lease which has been terminated prior to the end of its term due to:

(a) a default by the Lessee under the terms of the Lease;

(b) a Casualty Occurrence, as defined in the Lease, in which event the voluntary prepayment shall be limited to that portion of unpaid principal under this Note and Security Agreement, together with accrued interest thereon, proportionately equal to the percentage that the original purchase price of the items of Equipment suffering such event of loss bears to the original purchase price of the Equipment then subject to the Lease, provided, however, that payments of principal and interest shall continue to be payable under this Note and Security Agreement together with any additional interest required pursuant to Section 7 hereof with regard to payments of principal and interest remaining unpaid after the same have become due and payable;

(c) an early termination of the Lease under the terms of the Lease or as negotiated between the Debtor and the Lessee. In lieu of prepaying this Note and Security

Agreement pursuant to the above terms, the Debtor may offer to the Secured Party and the Secured Party may accept a substitute Lease or Leases of like quality and term. Secured Party shall not unreasonably refuse to accept a substitute lease of like quality and term.

Each of the remaining principal installments due hereunder shall be reduced in the proportion that the principal amount of the prepayment made pursuant to this Section bears to the unpaid principal amount outstanding immediately prior to the prepayment.

Section 7. Late Payment Rate

All payments not made when due under this Note and Security Agreement shall bear interest at the rate set forth in the Lease for late payments of rentals.

Section 8. Indemnity

(a) Debtor hereby agrees to indemnify and to hold Secured Party harmless from and against any and all claims, actions, suits, losses, damages, expenses (including, without limitation, reasonable fees and expenses of counsel) or other liabilities of any nature which the Secured Party may suffer by reason of breach or inaccuracy or any representation, warranty or covenant made by Debtor whether:

(i) contained in or the subject of this Agreement or in any Schedule or Exhibit hereto; or

(ii) contained in or the subject of any instrument or certificate delivered in accordance with, pursuant to or in connection with this Agreement.

(b) Debtor agrees to indemnify and save harmless Secured Party against any charges or claim made against Secured Party, and against any expense, loss or liability which the Lessee would be obligated to indemnify or save Secured Party harmless from pursuant to Section 8 of the Lease but for Debtor's sole or joint negligence. The indemnities contained in this paragraph shall survive the payment or performance of all other obligations under this Agreement or the termination of this Agreement.

Section 9. Events of Default

Any of the following events shall constitute an Event of Default hereunder:

- (i) Debtor shall fail to make any payment due hereunder within ten days after written notice that the same has become due,

- (ii) an Event of Default under and as defined in the Lease shall have occurred and be continuing,
- (iii) Debtor shall fail to perform or observe any other covenant, condition or agreement to be performed or observed by Debtor hereunder or in any agreement or certificate furnished to Secured Party in connection herewith and such failure shall continue unremedied for a period of 15 days after notice thereof to Debtor unless Debtor is using due diligence, in the opinion of the Secured Party's counsel, to correct such default,
- (iv) any representation or warranty made by Debtor herein or in any document or certificate furnished to the Secured Party in connection herewith shall be materially incorrect when made,
- (v) any report, certificate, financial statement or other instrument furnished by Debtor in connection with this Note and Security Agreement shall prove to be materially false or misleading and which Debtor knew was false or misleading prior to giving such information;
- (vi) the Debtor shall have become insolvent or bankrupt or admit in writing its inability to pay any of its debts as they mature or make an assignment for the benefit of creditors, or a receiver or trustee shall have been appointed with respect to the Debtor or any of the Debtor's estate, and which receiver or trustee shall remain undischarged for 90 days after appointment.
- (vii) bankruptcy, reorganization, arrangement, insolvency or liquidation proceedings, or other proceedings for relief under the United States Bankruptcy Code or any bankruptcy law or similar law now or hereafter in force for the relief of debtors, shall be instituted by or against the Debtor and be allowed against the Debtor or be consented to or fail to be dismissed within 90 days of such institution.

Section 10. Remedies

If an Event of Default hereunder shall have occurred and be continuing, all of the payments hereunder shall become immediately due and payable, without notice or demand, subject to Sections 11 and 13 hereof, and it shall be

then lawful for and, Debtor hereby authorizes and empowers Secured Party, with the aid and assistance of any persons; (i) to enter upon the premises, or such other place as the Equipment may be found and take possession of and carry away the Equipment as permitted by applicable law, at any time or times, dispose of same and apply the proceeds thereof to the balance hereof or any other obligations arising hereunder, all to the extent permitted by and in accordance with law and the terms and conditions of the Lease, (ii) to file any claim or take any other action or proceeding in any court of law or equity for the purpose of collecting any and all monies due under the Lease, (iii) upon the occurrence and continuance of a default by Lessee, to pay or discharge taxes, liens, security interests or other encumbrances levied or placed on or threatened against the Collateral, to effect any repairs or any insurance called for by the terms of this Note and Security Agreement or the Lease and to pay all or any part of the premiums therefor and the costs thereof, and (iv) upon the occurrence and continuance of any event of default under the terms of the Lease (A) to receive payment of and receipt for any and all monies, claims and other amounts due and to become due at any time in respect of or arising out of any Collateral; (B) to commence and prosecute any suits, actions or proceedings at law or in equity in any court of competent jurisdiction to collect the Collateral or any part thereof and to enforce any other right in respect of the Collateral; (C) to settle, compromise or adjust any suit, action or proceeding described above and, in connection therewith, to give such discharges or releases as the Secured Party may deem appropriate.

All rights, remedies and options conferred upon Secured Party hereunder or by law shall be cumulative and may be exercised successively or concurrently and are not alternative or exclusive of any other such rights, remedies or options. No express or implied waiver by the Secured Party of any default or Event of Default hereunder shall in any way be, or be construed to be, a waiver of any future or subsequent default or event of default. The failure or delay of the Secured Party in exercising any rights granted it hereunder upon any occurrence of any of the contingencies set forth herein shall not constitute a waiver of any such right upon the continuation or recurrence of any such contingencies or similar contingencies and any single or partial exercise of any particular right by the Secured Party shall not exhaust the same or constitute a waiver of any other right provided herein.

Section 11. Right to Cure

Anything herein to the contrary notwithstanding, in the case of any default occurring hereunder due to the occurrence of an Event of Default under

COPY

the Lease, Secured Party shall not, without the prior written consent of Debtor, exercise any remedy or remedies provided herein or in the Lease in respect thereof during the ten business (10) day period next following notice to Debtor by Secured Party of such Event of Default. During such period, Debtor shall have the right to cure, on behalf of Lessee, such Event of Default under the Lease. Each separate Event of Default occurring subsequent to such an Event of Default which was theretofore cured by Debtor shall be subject to the period during which Secured Party may not exercise its remedies as herein above provided.

No party exercising any such right to cure shall obtain any lien, charge or encumbrance of any kind upon any Equipment or any rentals or other amounts payable therefor under the Lease in respect of any sums paid in connection with the exercise of such right or the curing of such Event of Default, nor shall any claims of such party against Lessee for the repayment of such sums so advanced impair the prior right of Secured Party to the sums payable by Lessee under the Lease; provided however, that if no default hereunder shall then have occurred and be continuing and if all obligations then due and owing shall have been made, at the time of receipt by Secured Party from Lessee of an overdue installment of rent in respect of which Debtor shall have made payment to Secured Party pursuant to this paragraph and/or any interest payable by Lessee in respect of the late payment thereof, such installment or other sum and interest thereon shall be released to Debtor.

Section 12. Successors and Assigns

This Note and Security Agreement shall inure to the benefit of the successors and assigns of Secured Party.

Section 13. Rights Under Lease

Notwithstanding any of the provisions of this Agreement to the contrary, neither Debtor nor Secured Party shall take any action contrary to the rights of the Lessee under the Lease except in accordance with the provisions of the Lease.

Section 14. Miscellaneous

Any monies coming into the possession of Secured Party hereunder, whether paid by Debtor or the Lessee or derived from insurance or the proceeds of any sale of the Collateral, shall be applied in whole or in part to the obligations of Debtor subject to the terms and conditions of the Lease and Debtor's right to specify any such application is hereby waived except as provided in Section 11 hereof. If any monies at any time are payable to Debtor hereunder, the

same shall be deposited as Debtor or Debtor's transferee or assignee may direct.

This Note and Security Agreement may not be amended, waived, or discharged, except by an agreement in writing signed by the party against which or whom enforcement of the amendment, waiver, or discharge is sought. In case any one or more of the provisions contained in this Agreement shall be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein shall not in any way be affected or impaired thereby. Any provision of this Note and Security Agreement which is prohibited or unenforceable in any jurisdiction shall be, as to such jurisdiction, ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provisions in any other jurisdiction. Time and exactitude are of the essence hereof.

Secured Party may at any time assign to a subsidiary or affiliate all or any portion of this Note and Security Agreement, without notice to Debtor, or to an unrelated third party upon notice to Debtor. Debtor may not assign the Note and Security Agreement, except to an affiliate without prior written notice to Secured Party. Upon full payment of the sums due hereunder and the satisfaction of all obligations of the Debtor hereunder, the Secured Party shall upon Debtor's request execute termination statements for all outstanding filed financing statements relating to its security interest. This Note and Security Agreement shall be binding upon and inure to the benefit of the successors and assigns of the parties hereto. It is the intention of the parties that the provisions of this Note and Security Agreement shall be governed by the laws of the Commonwealth of Kentucky.

The term Debtor shall be deemed to include successors and assigns of Debtor.


All notices to be made hereunder shall be in writing and (a) if to Debtor, addressed to it Helm Financial Corporation, One Embarcadero Center, Suite 3500, San Francisco, California 94111 and (b) if to Secured Party, addressed to it at P. O. Box 36040, Louisville, Kentucky 40233. Either party hereto may change the address to which notice to such party shall be sent by giving notice of such change to the other party to this Note and Security Agreement.

Section headings are inserted for convenience only and shall not affect any construction or interpretation

of this Note and Security Agreement. The words "herein", "hereof", "hereby", "hereto", "hereunder", and words of similar import refer to this Note and Security Agreement as a whole and not to any particular section, subsection, paragraph, clause or other subdivision hereof.

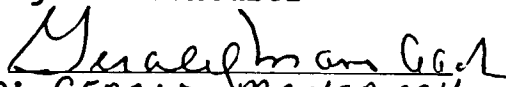
The principal place of business of the Debtor is Helm Equipment Leasing Corporation, One Embarcadero Center, Suite 3500, San Francisco, California 94111 and the Debtor shall notify the Secured Party and execute additional financing statements, to be filed at Debtor's expense, should such address change.

FIRST NATIONAL BANK
OF LOUISVILLE

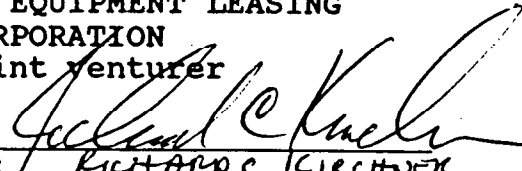
By: 
Name: MARY L. SCOTT
Title: VICE PRESIDENT

HM JOINT VENTURE

By: MANSBACH REALTY COMPANY
joint venturer

By: 
Name: GERALD MANSBACH
Title: PRESIDENT

HELM EQUIPMENT LEASING
CORPORATION
joint venturer

By: 
Name: RICHARD C. KIRCHNER
Title: PRESIDENT

WC26/S
11/26/91

COPY

COMMONWEALTH OF KENTUCKY)
(SS.
COUNTY OF BOYD)

On this 3RD day of DECEMBER, 1991, before me, the undersigned officer, personally appeared GERALD MANSBACH who acknowledged himself to the PRESIDENT of Mansbach Realty Company, a Kentucky corporation and that he, as such PRESIDENT, being authorized to so do, executed the foregoing instrument for the purposes therein contained, by signing the name of the corporation by himself AS PRESIDENT.

IN WITNESS WHEREOF, I hereunto set my hand and official Seal.

Edward B. Renneker
Commission Expires DEC. 6, 1994

STATE OF CALIFORNIA)
(SS.
COUNTY OF SAN FRANCISCO)

On this 6th day of December, 1991, before me, the undersigned officer, personally appeared Richard C. Kirchner who acknowledged himself to the President of Helm Financial Corporation, a California corporation and that he, as such President, being authorized to so do, executed the foregoing instrument for the purposes therein contained, by signing the name of the corporation by himself As President.

IN WITNESS WHEREOF, I hereunto set my hand and official



Karen Staudenmaier
Commission Expires July 26, 1993

COMMONWEALTH OF KENTUCKY)
(SS.
COUNTY OF JEFFERSON)

On this 13 day of DECEMBER, 1991, before me, the undersigned officer, personally appeared MARY C. SCOTT, who acknowledge himself to be a VICE PRESIDENT of First National Bank of Louisville, a national banking association, and that he, as such VICE PRESIDENT, being authorized to so do, executed the foregoing instrument for purposes therein contained, by signing the name of the corporation by himself as VICE PRESIDENT.

IN WITNESS WHEREOF, I hereunto set my hand and official Seal.

Laura Dana Beatty
Notary Public, State of Large, KY.
My commission expires Feb. 16, 1993

WC26/S
11/26/91

COPY

COMMONWEALTH OF KENTUCKY)
(SS.
COUNTY OF BOYD)

On this 3RD day of DECEMBER, 1991, before me, the undersigned officer, personally appeared GERALD MANSBACH who acknowledged himself to the PRESIDENT of Mansbach Realty Company, a Kentucky corporation and that he, as such PRESIDENT, being authorized to so do, executed the foregoing instrument for the purposes therein contained, by signing the name of the corporation by himself AS PRESIDENT.

IN WITNESS WHEREOF, I hereunto set my hand and official Seal.

Edward B. Renneker
Commission Expires DEC. 6, 1994

STATE OF CALIFORNIA)
(SS.
COUNTY OF SAN FRANCISCO)

On this 6th day of December, 1991, before me, the undersigned officer, personally appeared Richard C. Kirchner who acknowledged himself to the President of Helm Financial Corporation, a California corporation and that he, as such President, being authorized to so do, executed the foregoing instrument for the purposes therein contained, by signing the name of the corporation by himself As President.

IN WITNESS WHEREOF, I hereunto set my hand and official



Karen Staudenmaier
Commission Expires July 26, 1993

COMMONWEALTH OF KENTUCKY)
(SS.
COUNTY OF JEFFERSON)

On this 13 day of DECEMBER, 1991, before me, the undersigned officer, personally appeared MARY C. SCOTT, who acknowledge himself to be a VICE PRESIDENT of First National Bank of Louisville, a national banking association, and that he, as such VICE PRESIDENT, being authorized to so do, executed the foregoing instrument for purposes therein contained, by signing the name of the corporation by himself as VICE PRESIDENT.

IN WITNESS WHEREOF, I hereunto set my hand and official Seal.

Laura Dana Beatty
Notary Public, State of Large, KY.
My commission expires Feb. 16, 1993

WC26/S
11/26/91

COPY

EXHIBIT A

to

Recourse Note and Security Agreement

Dated as of December 13, 1991

Equipment Description

Two-hundred three (203) 3,502 cubic foot, 100-ton capacity, roller bearing, three pocket open top coal hopper railcars built by Missouri Pacific in 1967.

Equipment Numbers

URDX 87201

87203	87270	87336	87392	87464
87204	87272	87337	87393	87465
87205	87273	87338	87397	87466
87207	87276	87339	87399	87467
87210	87277	87340	87401	87468
87212	87278	87341	87402	87469
87213	87279	87342	87405	87470
87215	87280	87343	87406	87471
87216	87281	87344	87407	87472
87217	87282	87345	87408	87473
87218	87283	87347	87410	87474
87219	87286	87348	87411	87475
87220	87288	87350	87412	87476
87221	87292	87351	87413	87477
87222	87293	87352	87415	87478
87223	87294	87354	87416	87480
87224	87295	87355	87418	87484
87225	87296	87356	87419	87487
87227	87297	87357	87420	87488
87230	87299	87359	87423	87489
87231	87300	87361	87424	87491
87232	87301	87364	87425	87492
87233	87302	87365	87426	87494
87235	87306	87366	87427	87496
87237	87308	87367	87428	87498
87240	87309	87368	87429	87499
87241	87312	87370	87430	
87244	87313	87371	87431	
87245	87314	87372	87432	
87246	87315	87374	87434	
87247	87316	87375	87436	
87248	87318	87377	87438	
87249	87321	87378	87439	
87253	87322	87380	87440	
87254	87323	87381	87442	
87255	87324	87382	87444	
87258	87326	87383	87448	
87259	87329	87385	87449	
87260	87330	87386	87454	
87262	87331	87387	87456	
87264	87332	87388	87457	
87266	87333	87389	87459	
87268	87334	87390	87460	
87269	87335	87391	87462	

COPY

EXHIBIT A

to

Recourse Note and Security Agreement

MM *DECEMBER*
Dated as of ~~September~~ 13, 1991

continued

Equipment Description

Ninety-four (94) 3,422 cubic foot, 100-ton capacity, roller bearing, three-pocket open top coal hopper railcars built by Bethlehem steel in 1967.

Equipment Numbers

URDX 87000	87091	87172
87002	87095	87174
87004	87096	87177
87007	87097	87179
87009	87099	87182
87010	87101	87184
87012	87105	87185
87014	87107	87175
87017	87108	87179
87018	87110	87191
87019	87116	87192
87021	87117	87193
87022	87118	87194
87023	87119	87195
87026	87123	87196
87034	87124	87198
87035	87128	87199
87041	87129	87287
87045	87133	
87046	87134	
87055	87135	
87057	87136	
87060	87138	
87062	87139	
87064	87140	
87066	87144	
87068	87145	
87072	87151	
87073	87153	
87074	87156	
87078	87159	
87080	87160	
87082	87162	
87085	87165	
87086	87166	
87087	87169	
87088	87170	
87090	87171	

COPY